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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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<b>2003 Assembly Bill 487</b>	<b>Assembly Amendment 1</b>
<i>Memo published: September 26, 2003</i> <i>Contact: Joyce L. Kiel, Senior Staff Attorney (266-3137)</i>	

**Current law** requires certain health care providers to carry health care liability (medical malpractice) insurance up to certain liability limits. These health care providers also are required to pay assessments to the Patients Compensation Fund (PCF), and, in general, the PCF pays medical malpractice claims that exceed these limits. In addition to the assessments, the PCF also earns investment income.

**Current law** specifies that: “The fund shall be held in trust for the purposes of this chapter [ch. 655, Stats.] and may not be used for purposes other than those of this chapter.” [s. 655.27 (6), Stats.] No specific purposes of ch. 655, Stats., are specified. However, current law specifies in s. 655.27 (1), Stats., that the PCF was created “for the purpose of paying that portion of a medical malpractice claim which is in excess of the limits expressed in s. 655.23 (4) or the maximum liability limit for which the health care provider is insured, whichever limit is greater, paying future medical expense payments under s. 655.015, and paying claims under [s. 655.27] sub. (1m).”

**2003 Assembly Bill 487** does the following:

1. Changes the name of the PCF to the “Injured Patients and Families Compensation Fund” (IPFCF).
2. Specifies that the IPFCF is established to curb the rising costs of health care by financing part of the liability incurred by health care providers as a result of medical malpractice claims and to ensure that proper claims are satisfied. (The bill does not amend s. 655.27 (1), Stats., regarding the purposes of the fund, as noted above.)
3. Specifies that health care providers and claimants have contractual rights in all assets of the IPFCF for the purposes specified in item 2.

4. Specifies that the IPFCF, including any net worth of the IPFCF, is held in trust exclusively for the benefit of health care providers and proper claimants and may not be spent for any other purpose of the state.

*Assembly Amendment 1* to the bill deletes item 3., above, regarding contractual rights in the assets of the IPFCF. The amendment also changes item 4., above, to specify that the IPFCF, including any net worth of IPFCF, is held in “irrevocable trust” and further specifies that the irrevocable trust is for the benefit of health care providers “participating in the fund” and proper claimants. The amendment specifies that any moneys in the IPFCF may not be used for any other purpose of the state.

### **LEGISLATIVE HISTORY**

Assembly Amendment 1 to the bill was offered by the Assembly Committee on Insurance which then recommended adoption of the amendment on a vote of Ayes, 14; Noes, 0. The committee recommended the bill, as amended, for passage on a vote of Ayes, 14; Noes, 0.

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